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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,691

09/30/2003

Kenneth M. Riff

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EXAMINER

REYES, REGINALD R

ART UNIT

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3626

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,691	<b>Applicant(s)</b> RIFF, KENNETH M.	
	<b>Examiner</b> REGINALD REYES	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3-21-2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. Claim 1-52 has been examined.

### ***Claim Rejections - 35 USC § 112***

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 is unclear as to what the invention is since it recites the same claim as the first limitation of claim 1.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 33, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44, 45, 46, 47, 48, and 52 are rejected under 35 U.S.C. 102 (b) as being anticipated by Mouchawar et al (U.S. 6,345,200).

5. With respect to claims 1, 17, 34, and 42 Mouchawar teaches a method comprising: accessing patient medical information of a clinical information system with a medical device programmer (see for example Mouchawar column 3 lines 45-53);

Art Unit: 3626

providing an interface by which a programming operator interacts with the medical device programmer to identify a programming parameter value based on the patient medical information (see for example Mouchawar column 3 lines 66-57 and column 4 lines 1-14); and programming a medical device with the medical device programmer in accordance with the programming parameter value (example Mouchawar column 3 lines 66-67 and column 4 line 1).

6. With respect to claims 2, 18 and 43, Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches wherein accessing the patient medical information comprises directly accessing the patient medical information of the clinical information system (see for example Mouchawar column 3 lines 45-53). Regarding “wherein/whereby” clauses, according to the MPEP, “whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited” (*Minton v. Nat’l Ass’n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381, 67 USPQ2d 1614, 1620 (Fed. Cir. 2003)). Also, a (whereby/wherein) clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim ((*Texas Instruments Inc. v. International Trade Commission* 26, USPQ2d 1010 (Fed. Cir. 1993); *Griffin v. Bertina*, 62 USPQ2d 1431 (Fed. Cir. 2002); *Amazon.com Inc. v. Barnesandnoble.com Inc.*, 57 USPQ2d 1747 (CAFC 2001)).

7. With respect to claims 3, 19, 35 and 44 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches wherein accessing the patient medical

Art Unit: 3626

information comprises accessing the patient medical information of the clinical information system via a gateway device that couples the clinical information system and the medical device programmer (see for example Mouchawar column 12 lines 54-61).

8. With respect to claims 4, 20, 22, 36 and 45 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches further comprising filtering the patient medical information to obtain a subset of the patient medical information from the clinical information system (see for example Mouchawar column 4 lines 1-14).

9. With respect to claims 5 and 46 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches wherein accessing the patient medical information of the clinical information system comprises accessing the patient medical information of a plurality of clinical information systems (see for example Mouchawar column 9 lines 55-67).

10. With respect to claims 6, 23, 37 and 47 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches further comprising presenting the patient medical information to the programming operator via the medical device programmer (see for example Mouchawar column 4 lines 5-14).

Art Unit: 3626

11. With respect to claims 7, 24, 38 and 48 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches further comprising: automatically computing a programming parameter value based on the patient medical information (see for example Mouchawar column 3 lines 49-53); and displaying the computed programming parameter value to the programming operator via the medical device programmer (see for example Mouchawar column 4 lines 5-14).

12. With respect to claim 8, Mouchawar teaches the method of claim 7 (as described above). Mouchawar teaches wherein the programming operator identifies the programming parameter value by selecting the suggested programming parameter value (see for example Mouchawar column 6 lines 38-53).

13. With respect to claim 9, 25 and 39 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches further comprising initiating a programming session with the medical device to update at least one programming parameter value of the medical device based on the identified programming parameter value (see for example Mouchawar column 7 lines 47-50).

14. With respect to claims 16, 33, 41 and 52 Mouchawar teaches the method of claim 1 (as described above). Mouchawar teaches wherein the medical device comprises one of an implantable pacemaker, an implantable cardioverter/defibrillator (ICD), an implantable pacemaker/cardioverter/defibrillator (PCD), a neurostimulation

Art Unit: 3626

device, and a drug delivery device (see for example Mouchawar column 3 lines 66-67 and column 4 line 1).

15. With respect to claim 21, Mouchawar teaches the system of claim 19 (as described above). Mouchawar teaches wherein the gateway device computes a programming parameter value based on the patient medical information (see for example Mouchawar column 7 lines 57-59).

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 10, 11, 12, 13, 14, 15, 26, 27, 28, 29, 30, 32, 40, 49, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouchawar et al (U.S. 6,345,200) in view of Snell (U.S. 6,249,705).

18. With respect to claims 10, 26, and 40 Mouchawar teaches the method of claim 9 (as described above). Mouchawar does not teach wherein initiating a programming session comprises initiating a remote programming session. Snell teaches capturing and examining data at a remote location (see for example Snell column 5 lines 49-56). It would have been obvious to one of ordinary skill in the art at the time of application to

Art Unit: 3626

combine remotely accessing program sessions to initiate programs faster and also to make use of the available technologies.

19. With respect to claims 11 and 27 Mouchawar in view of Snell teaches the method of claim 10 (as described above). Snell teaches wherein initiating the programming session comprises sending instructions to an intermediary programming device via a network (see for example Snell column 3 lines 20-25).

20. With respect to claim 12 Mouchawar in view of Snell teaches the method of claim 9 (as described above). Snell teaches wherein initiating a programming session comprises initiating a programming session in a clinical setting (see for example Snell column 5 lines 7-9).

21. With respect to claims 13, 28, and 49 Mouchawar in view of Snell teaches the method of claim 1 (as described above). Snell teaches, further comprising: interrogating the medical device to extract information stored by the medical device; and sending the information extracted from the medical device to the clinical information system; and storing the information within the clinical information system (see for example Snell column 5 lines 49-56).

22. With respect to claims 14, 29, 30 and 50 Mouchawar in view of Snell teaches the method of claim 1 (as described above). Snell teaches further comprising: receiving



Art Unit: 3626

input from the programming operator via the interface identifying administrative data; and sending the administrative data to the clinical information system (see for example Snell column 5 10-16 and column 10 lines 53-59).

23. With respect to claim 15, 32 and 51 Mouchawar in view of Snell teaches the method of claim 1 (as described above). Mouchawar teaches wherein the clinical information system comprises one of a healthcare information system, an electronic medical records system, a practice management system, a cardiovascular information system, a clinical laboratory information system, radiology information system, and a picture archiving and communication system (see for example Snell column 4 lines 45-48).

24. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mouchawar et al (U.S. 6,345,200) view of Snell (U.S. 6,249,705) in view of Lavin et al. (U.S. 5,772,585).

With regards to claim 31 Mouchawar in view of Snell teaches the system of claim 30 (as described above). Mouchawar in view of Snell does not teach wherein the clinical information system automatically generates at least one of a bill and a subsequent appointment. Lavin teaches automatically generating a bill after an office visit (see for example Lavin column 13 lines 55-59). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the features to speed up the billing

Art Unit: 3626

service of clinics.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,574,511 teaches passive data collection system from a fleet of medical instruments and implantable devices.

U.S. Patent No. 6,450,172 teaches broadcast audible sound communication from an implantable medical device.

U.S. Patent No. 6,415,175 teaches interface from a medical device system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINALD REYES whose telephone number is (571)270-5212. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. R./  
Examiner, Art Unit 3626

/Robert Morgan/  
Examiner, Art Unit 3626